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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF SOUTH DAKOTA
3 NORTHERN DIVISION

3 * * * * *
4 SIOUX RURAL WATER SYSTEM, INC., * 1:15-CV-01023-CBK
5 A NON-PROFIT CORPORATION, *

5 Plaintiff, *

6 vs. *

7 CITY OF WATERTOWN, A SOUTH *
8 DAKOTA MUNICIPALITY; AND *
9 WATERTOWN MUNICIPAL UTILITIES, *
AN AGENCY OF THE CITY OF *
WATERTOWN, *

10 Defendants. *

11 * * * * *

12

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14 DEPOSITION

15 OF

16 JEFF DEVILLE

17 February 16, 2016

18 10:55 o'clock, a.m.

19

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22 Taken at:
23 Offices of Watertown Municipal Utilities
24 901 Fourth Avenue SW
25 Watertown, South Dakota

26 Reporter: Tammy Stolle, RPR

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1 Q. (BY MR. COLE) We heard Steve talk a little bit
2 about areas where there were pipes in the ground for the City
3 of Watertown and customer billing information. Are you the
4 person who would be best positioned to be able to give us
5 information on that?

6 A. The pipes I would, but not the billing
7 information.

8 Q. Sure. Okay. And I'm just going to ask you a
9 couple of these questions. We can look at the documents, but
10 I think you'll know the answer right off the top of your
11 head, but Steve talked about what a private fire service was.
12 Do you recall that?

13 A. A private fire service?

14 Q. Yes.

15 A. Yeah, that would be any building that would be --
16 have internal sprinkling such as this here with the heads in
17 the ceiling.

18 Q. Do you have a map of where those private fire
19 services are located?

20 A. Generally, no. We track water mains. We don't
21 track services.

22 Q. Are you familiar at all with the financial issues
23 involving MU?

24 A. No, not really.

25 Q. You're the person though best to ask about the

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1 policy of MU?

2 A. Yes.

3 Q. And is it also a policy of the City of Watertown?

4 A. I don't know that the city has a policy like
5 that.

6 Q. And we talked about the comp plan. I'm just -- I
7 mean, if you don't know much about it, you don't know much
8 about it, but that's where it says there's a policy of not
9 providing service beyond the city limits of Watertown.

10 A. I'd have to take your word for it. I've never
11 read the document.

12 Q. Fair enough.

13 During the time that you've worked as the
14 superintendent, it's fair to say there's been a number of
15 annexations of properties into the City of Watertown?

16 A. Yes.

17 Q. And for each one of those annexations, is it fair
18 to say that it's been the intent of MU to provide service to
19 those newly annexed areas?

20 A. Yes.

21 Q. And if there was Sioux customers there, you would
22 apply the process that you've already testified to, correct?

23 A. I would apply what I said that we would not ask
24 to have that person hooked to us.

25 Q. But if the person asked to be hooked to you, then

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1 water production and distribution system of Municipal
2 Utilities?

3 A. Sure.

4 Q. Are you familiar with the Watertown, City of
5 Watertown comprehensive land use plan?

6 A. I know they have one.

7 Q. Have you been involved at all in the development
8 of any of the plans and policies involved in any of the
9 comprehensive land use plans or its amendments?

10 A. No.

11 Q. Have you ever assisted anyone from the planning
12 district or from the city in preparing the comprehensive land
13 use plan?

14 A. Not directly. If there'd have been a request
15 made through, you know, any city official, I guess, I would
16 share production information, but that would be the extent of
17 it.

18 Q. Is there anybody that you're aware of that works
19 for MU that would have cooperated with the planning district
20 or the city with regard to the comp plan?

21 A. That would be -- no.

22 Q. We talked a little bit about the policy of not
23 providing water beyond city limits. Do you recall that?

24 A. Yes.

25 Q. And is it your understanding that that is a

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1 you would hook them up?

2 A. Yes.

3 Q. One of the things I read in this comp plan that
4 you haven't read that I'm going to ask you about --

5 A. Okay.

6 Q. -- anyway, is they talk about -- get on the right
7 page here. I'm directing -- I'll just tell you where I'm
8 referring to this. I don't think you need to look at it
9 unless you want to.

10 A. Okay.

11 Q. But it's Defendant 69, and it says, in part,
12 quote, "First, the city has a differential of water pumped to
13 water sold in excess of approximately 15 percent. This is a
14 generally acceptable amount of loss for a water distribution
15 system." Have you ever heard that statement before?

16 A. I have.

17 Q. Do you agree with it?

18 A. I don't know that 15 percent is acceptable, but
19 that's kind of industry standards.

20 Q. With specific reference to the Municipal
21 Utilities, what is your percentage of water loss?

22 A. It varies, you know. I would -- I'd have to -- I
23 think maybe we're at 12 percent or something like that.

24 Q. Do you have records that would indicate what your
25 yearly water loss amount would be?

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1 A. Yes.
 2 Q. And you said it's currently you think about
 3 12 percent?
 4 A. I believe so.
 5 Q. But the industry standard is 15?
 6 A. Up to 15, yeah.
 7 Q. And in past years have you been higher than 12?
 8 A. Oh, yeah.
 9 Q. How high have you went?
 10 A. I know we've been at -- I don't know for the
 11 whole year, but for monthly information, you know, 15, 16.
 12 Q. Has that affected your ability to serve your
 13 customers at all?
 14 A. No, we still -- we haven't ran out of water yet.
 15 Q. During your time as the water superintendent,
 16 when annexations have been completed, has there ever been any
 17 discussion of the economics of acquiring existing rural water
 18 systems?
 19 A. Not to my knowledge, no.
 20 Q. Are you familiar with the general growth areas of
 21 the City of Watertown?
 22 A. General, yeah.
 23 Q. And again, there are several growth areas, one is
 24 the northeast growth area, Elmira Township, are you familiar
 25 with that in general terms?

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1 A. I know where it's at. I mean, you know, it's the
 2 east part of town, you know. I couldn't tell you what the
 3 extent of the growth area is, but...
 4 Q. When there's going to be an annexation by the
 5 City of Watertown, what does the city do to find out whether
 6 or not MU can provide water to that area that's going to be
 7 annexed?
 8 A. I don't know.
 9 Q. How do you find out about it?
 10 A. Well, you know, we get minutes of what, you know,
 11 the planning commission is doing from the city, but I don't
 12 -- you know, they aren't contacting me to find out if I've
 13 got capacity there or not.
 14 Q. Do you know who they are contacting?
 15 A. No.
 16 Q. Would you want the city to annex property that
 17 you couldn't provide service to?
 18 A. I guess I would have to -- if they annexed it in,
 19 I would have to try and get service to them. You know, it --
 20 Q. Is it fair to say that the city officials, city
 21 government, are the ones that decide where the annexation is
 22 going to take place and then it's your guys's job to provide
 23 water to that location after the fact?
 24 A. I would say so, yes.
 25 Q. Have you had a chance to review some of the maps

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1 of service locations for Sioux Rural Water?
 2 A. I looked at that base map, yes.
 3 Q. And do you agree with me that Sioux has a number
 4 of customers in Watertown's various growth areas?
 5 A. I would assume so, yes.
 6 Q. And is it your understanding that the intent of
 7 MU, if and when those areas are annexed into the city, that
 8 you would follow the procedure that you've already discussed
 9 here at this deposition?
 10 MR. HIEB: Objection. Calls for speculation. Go
 11 ahead.
 12 A. If that customer would ask for our service, I
 13 would go down the path that is laid out by the state law.
 14 Q. (BY MR. COLE) And even if Sioux to your
 15 understanding, if Sioux said no, MU to your understanding
 16 would follow the state statute?
 17 MR. HIEB: Same objection, calls for speculation.
 18 Go ahead.
 19 A. Yeah, I would -- I don't know. I guess I'd have
 20 to see what happens. I -- it's not -- I don't know that I
 21 can answer that easily.
 22 Q. (BY MR. COLE) Sure. The past -- in the past
 23 though, that's been how it's worked, correct?
 24 A. The one time that it's happened.
 25 Q. During the time that you've been water

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1 superintendent, at any discussion of the provision of water
 2 to an annexed area, has there ever been any discussion that
 3 MU has had internally about the location of a Sioux line?
 4 A. I don't believe so.
 5 MR. COLE: Let's go to, if we can, Jack, look at
 6 Defendant 421.
 7 Q. (BY MR. COLE) Do you have Defendant 421 in front
 8 of you?
 9 A. Yep.
 10 Q. I'd ask you to take just a couple minutes or less
 11 and just look through the pages of that.
 12 MR. HIEB: How many pages do you want him to look
 13 at, Jeff?
 14 MR. COLE: Well, let me count them. Five pages.
 15 MR. HIEB: Let me pull this out. (Handing.)
 16 Q. (BY MR. COLE) Do you recall getting this
 17 particular letter?
 18 A. Yes.
 19 Q. Do you have any reason to doubt that the
 20 customers that are listed in this document are in fact
 21 customers that have been added onto rural water within a
 22 three-mile radius of Watertown?
 23 A. I'm assuming so, that's what it says right in the
 24 reason for the letter.
 25 Q. And there's various handwriting, it says SRW